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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 30 April 1996, at 3 p.m.

Chairperson: Mr. ALVAREZ VITA

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Paraguay (continued) (E/1990/5/Add.23; E/C.12/1995/LQ.1/Rev.1)

1. At the invitation of the Chairperson, Mr. Loizaga and Mr. Ugarriza (Paraguay) took places at the Committee table.

Article 7. Right to just and favourable conditions of work (issues 16-21)

2. Mr. LOIZAGA (Paraguay) said in reply to the issues raised regarding article 7 that his Government was continuing its policy of providing workers, and unemployed workers in particular, with vocational and technical training and to that end had increased its support for the National Service for Occupational Advancement. With regard to wages, a 10 per cent increase in the minimum wage, retroactive to 1 April 1996, had been decreed in the light of the cost-of-living statistics. The increase was applicable only to persons currently earning the minimum wage established by the Government in accordance with the procedures laid down in the Labour Code. Minimum wage scales had also been established for rural workers and workers in domestic service and applied throughout the country. On the question of the work of young people and children, on 15 March 1995 the Government had inaugurated a programme in connection with the rights of the child, which would bring together the governmental and non-governmental sectors concerned for the purpose of planning future coordinated action to enhance the development and welfare of young workers, particularly the most vulnerable and disadvantaged among them.

3. Regarding protection of the rights of Paraguayan migrant workers in neighbouring countries, he noted that the member countries of MercoSur were currently studying a draft agreement to regulate exchanges in that area. His Government was currently holding talks with the Government of Argentina on arrangements for the settlement of, and legal work opportunities for, Paraguayan migrant workers in that country. An agreement on frontier-dwellers had also been reached with Brazil.

4. Mr. TEXIER said that the Committee would be interested to hear whether the current minimum wage sufficed to meet the normal day-to-day needs of workers as described in paragraph 113 of the report. The figures given in the table in paragraph 120 did not show the movement of the minimum wage in relation to inflation. The information in the report on work by women and women's wages was somewhat disquieting, although the Government was perhaps to be congratulated on its honesty in admitting the discrimination still suffered by women in practice notwithstanding the instruments that existed to ensure their equality before the law. In regard to occupational safety and health, he would like to know what was being done to avoid industrial accidents, what compensation was available to workers and what penalties were imposed on employers who did not provide adequate protection.

5. Mr. ADEKUOYE said that the report included a number of statistics derived from surveys by the Directorate-General for Statistics. He could not, therefore, accept the statement in paragraph 131 that the absence of statistics concerning industrial accidents prevented measures being taken to deal with the problem of industrial accidents or evaluate the degree of success achieved. If the main reason for the lack of statistics was the fact that accidents were frequently not reported by employers, what was needed was an adequate level of supervision. He asked what was being done to ensure that the Government's industrial safety standards were being complied with.

6. Mr. CEAUSU noted that there was a considerable body of legislation in Paraguay concerning work by women, as well as specific provisions relating to non-discrimination among workers on grounds of sex. In paragraph 126 of the report, however, it was acknowledged that, notwithstanding the instruments that existed to ensure their equality, in practice women workers still suffered discrimination. The Committee would like to hear what action the Government was taking to ensure that the legislation was implemented. The chapter of the Labour Code on wages stipulated that there should be equal remuneration for work of equal value "except when higher wages are paid on the basis of seniority and merit". It was accepted in most countries that seniority could lead to higher wages, but he had difficulty in understanding "merit". The fact that women bore and brought up children might be regarded as a merit, rather than that motherhood should be offered as the main reason for women's lower status on the labour market. In its next report, the Government should tell the Committee what specific action was being taken to combat discrimination against women and what recourse was open to them in order to defend their rights in the field of work.

7. There was some useful information in the report regarding occupational health and safety. He would like further details, however, concerning the National Council for Occupational Safety and Health referred to in paragraph 133. As it was attached to the Ministry of Justice and Labour and consisted of representatives of that Ministry and the Ministry of Health and Social Welfare, as well as workers' and employers' organizations, he found it difficult to understand how it could be truly independent. He would like to know more about its role, whether there was a corps of labour inspectors for example, and what practical action was being taken to ensure that the provisions of the Constitution and the Labour Code regarding occupational safety were obeyed.

8. Mr. LOIZAGA (Paraguay) said the fact that appropriate legislation now existed to protect the rights of workers in regard to wages and occupational safety could be regarded as a major advance. He agreed that the actual implementation of the legislation was not yet perfect and that the infrastructure for supervision was lacking, but the general economic difficulties under which Paraguay laboured should be borne in mind. He would convey the Committee's concerns to his Government and the responses requested would be forthcoming. The report had been very honest regarding the absence of equal treatment for women at work. Steps were being taken to improve the situation, however, including the establishment by the Government of a National Secretariat for Women which was organizing a series of seminars and workshops to inform women of their right to equal treatment. The cultural and

historical roots of discrimination against women made it difficult to eliminate that practice but he trusted that the efforts being made would one day be triumphant.

Article 8. Trade union rights (issue 22)

9. Mr. LOIZAGA (Paraguay) explained that the Constitution of 1992, drawn up with the participation of trade unionists, fully established the right to strike, providing essential minimum services in the public sector were not affected. The trade unions' right of free assembly was also fully guaranteed. Another general strike was expected in Paraguay on 2 and 3 May. In the light of recent violent incidents, it had become necessary to safeguard workers who did not participate in strikes, since assertion of the right to strike must not entail compelling workers to strike against their will.

10. Mr. RATTRAY, referring to Jamaica's experience, agreed that for a country seeking to attain development goals, the right to strike did sometimes involve achieving a precarious balance between stability and full respect for human rights. Although Paraguay's report stated that the right to form unions was unrestricted, that appeared to be not always the case. According to paragraph 155, there must be a specific number of founding members before a union could be deemed legal. Since those numbers varied considerably between professions, he queried the basis for that apparent discrimination which seemed to restrict the constitutional right to strike. Although the report claimed that "legal" strikes would not give rise to penalties or cause a contract to be terminated, were the participants in "illegal" strikes subject to criminal proceedings? He asked what judicial mechanisms determined the legality of strikes and requested specific details of strikes judged to be illegal and the number and nature of penalties or criminal proceedings brought against workers involved in strike action.

11. Ms. TAYA cited a report by UNICEF claiming that 72 per cent of women workers in Paraguay earned less than the legal minimum wage. A United States report referred to substantiated cases of abuse of national service obligations in 1993 and suggested that the prohibition of forced labour was not observed. One non-governmental organization (NGO) reported the dismissal of strike instigators with no judicial proceedings. She questioned whether poor workers' rights were being properly defended in practice by judicial bodies despite the admirable legislation on paper, and asked what steps the Government of Paraguay was taking to strengthen the independence of the judiciary.

12. Mr. THAPALIA asked whether teachers, doctors and engineers all had an equal right to hold meetings and strike, as should be the norm in a democratic system.

13. Mr. TEXIER wondered why in article 316 of the Labour Code "occupation of places of work" was considered illegal. That was surely the prerequisite for any strike, which constituted the ultimate recourse in the absence of conciliation. He agreed with Mr. Rattray that the right to strike in Paraguay seemed threatened. The very purpose of a strike in the public or private sectors was to exert pressure; that fact alone could not constitute adequate grounds for declaring a strike illegal. France had been paralysed recently

during a public transport strike, which had, however, been deemed legal. The thorny question remained as to whether minimum services should be ensured during strikes. Truly objective criteria for determining the legality of strikes were needed. Who determined the criteria in Paraguay and what legal provisions existed?

14. Mr. LOIZAGA (Paraguay) apologized for his unfamiliarity with labour issues, but pointed out that the provisions in the Labour Code for determining the legality of a strike had been drawn up on the basis of negotiations with Paraguay's main trade unions. As stipulated in the Code, a strike could be declared illegal and subsequently referred to a court if it was not commensurate with its recognized aims. During Paraguay's brief period of democracy, the right to strike had been fully guaranteed and exercised, and the Government had not taken any repressive action in that connection. A conciliation panel was currently seeking a solution to the impending strike threatening the business sector. His Government had always tried to exercise its powers of persuasion to avert strikes, which had mainly concerned the minimum wage. The Labour Code stipulated that any decision regarding the minimum wage should be corroborated by statistical data; however the latter were often interpreted differently by trade unions and the Government.

15. With regard to freedom of association, the Constitution clearly stated that all private and public-sector workers, with the exception of the police and armed forces, were permitted to hold meetings without prior authorization. The Constitution also ensured that trade unions could not be disbanded or repressive action taken against them for encouraging workers to strike in defence of their interests. Over the past seven years, hundreds of trade union organizations had been entered in the labour register, representing a fivefold increase over the period 1969-1989. If public-sector workers demonstrated within the legitimate framework of their labour claims, that was not viewed as coercive pressure on the Government. Often, however, those involved in strikes made excessive claims over and above the issue in question.

16. The views expressed in the reports cited by Ms. Taya were shared neither by his Government nor by its citizens. In 1994, an independent judiciary had been set up under the aegis of the National Council of the Magistrature, the body responsible for electing judges and magistrates, whose appointment would be approved by Parliament.

17. In only five years of transition towards democracy following a long dictatorship which had ignored political and civil rights, Paraguay could not be expected to progress as rapidly as other countries, despite its commitment to safeguarding those rights. The right to strike action had in the main been respected. All too often, however, as in other countries, strikes became overly politicized. A committee established under the Constitution to ensure that strikes remained peaceful now safeguarded the important right of non-participants in strikes to travel freely to their place of work. Various judicial bodies, independent of the executive, served as the impartial arbitrators of labour disputes.

Article 9. Right to social security (issues 23-25)

18. Mr. LOIZAGA (Paraguay) reaffirmed the statement in the report that there was no unemployment insurance in Paraguay. Social security nevertheless covered work-related accidents. No assistance was currently available to older persons without a pension. The social security system was, however, being revised with a view to combining it with a system of private insurance to provide greater coverage for workers. Further details had been supplied in the report and his delegation could supplement them if necessary.

19. Mrs. JIMENEZ BUTRAGUEÑO expressed concern at the lack of unemployment insurance and asked what recourse was available to people who were unemployed through no fault of their own. In the absence of social security, how were they to obtain food or provide for their children if they missed work through sickness? She assumed help must be provided at the local or family level. What rights were actually enjoyed by older persons in Paraguay? Additional details about the situation of older persons and single mothers, and the percentage of older persons in receipt of a pension, would be welcome.

20. Mr. LOIZAGA (Paraguay) apologized for his inability to offer the Committee more precise information. Although there was no unemployment insurance of the kind existing in Switzerland or the United States, female workers did have access to social security to cover childbirth. His delegation could supply additional statistical data in due course.

21. Mr. CEAUSU queried apparent discrepancies in paragraph 200 of the report. The figure for the protected population did not tally with the number of those presumably paying a monthly social-security contribution. Were only active contributors covered for sickness and occupational diseases or accidents?

22. Mrs. JIMENEZ BUTRAGUEÑO, referring to the same paragraph, asked why only 512,945 people were described as being economically active when Paraguay's total population exceeded 4 million. Did the statistics only refer to workers employed in a formal capacity?

23. Mr. LOIZAGA (Paraguay) agreed that there did seem to be some discrepancy and promised to look into the matter.

Article 10. Protection of the family, mothers and children (issues 26 and 27)

24. Mr. LOIZAGA (Paraguay) said that Parliament was currently considering a new Penal Code to characterize violence against mothers and violence within the family as offences and establish appropriate penalties. The National Secretariat for Women was currently conducting a campaign to encourage the reporting of violence and increase public awareness about that deeply-rooted problem.

25. Street children constituted one of the Government's priorities and a project had been initiated with the cooperation of the National Social Welfare Institute and NGOs working directly with such children in order to provide them with training and temporary accommodation. Four or five months previously, the First Ladies of Latin America had met in Paraguay and street children had been at the top of their agenda.

26. His delegation would be pleased to provide additional information and answers to questions in a supplementary report.

27. Mrs. JIMENEZ BUTRAGUEÑO observed that the needs of street children, and also of the related group of children mistreated by their families, could be served by correlating them with the needs of those desiring to adopt children. She asked whether the Government had an adoption policy, whether it facilitated the adoption of abandoned children and whether the same facilities were extended to foreign as to Paraguayan couples.

28. Mr. ADEKUOYE asked for more information on the adoption provisions under the Juvenile Code (para. 229 of the report) and whether they had actually been put into effect. Street children posed a serious community problem in many countries, including Nigeria. The strategies outlined in the report (paras. 225-228) to improve their lives were impressive. However, since so many of the children spent so many hours working in the streets - some of them at the scandalously young age of four - it was not clear when they would be able to find time for the courses and training programmes that were to be their way out.

29. Mrs. AHODIKPE asked whether violations against women under article 10 had ever actually been punished by the courts.

30. The CHAIRPERSON, speaking in a personal capacity, asked how the assertion in the core document (HRI/CORE/1/Add.24, paras. 62-64) that 95 per cent of Paraguayan women were Catholic and that Catholicism was a powerful force in the country could be reconciled with the statement in the report (para. 208) that in Paraguay the family was mostly based on the concept of "cohabitation" as the de facto union between a man and a woman, the conditions of which were established by law. If purely religious marriages had no legal force in Paraguay, that might perhaps explain some of the contradiction. Yet since de facto unions, so frequently unstable, accounted for a large proportion of abandoned children, more information was needed on what steps the Government was taking to address the problem. It was also not clear whether there was any divorce in Paraguay and, if so, whether men and women had an equal right to petition for divorce.

31. Mr. RATTRAY asked whether there was any legal right to alimony or family support once a de facto union ceased to exist, noting that apparently Paraguayan law recognized the hereditary effects of such unions and made provision for the disposition of property (paras. 208 and 209 of the report); whether, in both de facto unions and solemnized marriages, a women was entitled to paid maternity leave; and whether children could "divorce" their parents in Paraguay.

32. Mr. CEAUSU said that the report (para. 221) gave some indication of laws governing child labour in Paraguay and mentioned some forms of protection, but offered too descriptive an account (paras. 232-241) of the situation of working children without explaining the relevant social forces and perhaps government attitudes that drove them to work in such numbers. The legal provision that juveniles between the ages of 12 and 18 required authorization

to work might, in fact, actually encourage employers to circumvent the law by hiring children without contracts; and there seemed to be only an indirect prohibition on child labour below the age of 12.

33. As to street children, the Committee's prime concern was with children actually living in the streets without any shelter, rather than simply with children working in the streets, as the report seemed to interpret the term.

34. Mr. TEXIER said that he would like to know, regardless of the type of union involved, whether men, women and children in a family had equal rights in general and equal patrimonial rights; whether children born out of wedlock had equal rights; whether there was equality in divorce; and what laws governed custody and hence the impact of divorce on children.

35. Mr. AHMED observed that, judging from reports of United Nations agencies, the problem of street children was a direct product of the high incidence of broken families in Paraguay. For instance, according to figures given in two recent UNICEF reports, 98 per cent of street children in Asunción did not live in the streets but at home; 76 per cent of them lived in broken homes, and 65 per cent of those lived in homes headed by single mothers, who had simply been abandoned by the men with whom they had cohabited and had to fend for themselves. He would appreciate an explanation of why the Government had not established a working alimony system, obliging men to take responsibility for any children they had fathered. A long-term campaign was needed to remedy the situation; that required action by the Government, the social-service agencies and the Church.

36. Mrs. JIMENEZ BUTRAGUEÑO observed that underlying the deterioration of the family was the equally basic problem of poverty.

37. The CHAIRPERSON, speaking in a personal capacity, drew attention to paragraph 44 of the core document, which stated that 81.9 per cent of heads of household were men. That figure appeared to be at variance with figures in other reports, and he would welcome an explanation.

38. Mr. CEAUSU said that perhaps the discrepancy could be explained by the fact that no figures had been given to make it clear how many people in Paraguay were legally married or living in de facto unions that had subsequently been legalized, and how many were living in consensual unions.

39. Mr. LOIZAGA (Paraguay) said that the family was the nucleus of society in Paraguay. He totally disagreed with what was stated in the report about the prevalence of cohabitation. The Paraguayan people were eminently Catholic and women had a privileged position in the family. Perhaps the percentages given in the report on consensual unions had resulted from a misreading of certain surveys by a government agency. It was true that in rural areas such unions were common, but recent legislation had greatly facilitated their legalization, and the Catholic Church had also worked intensively to regularize them. Broken families were not unique to Paraguay.

40. Paraguay had laws governing both adoption and fosterage. The latter system had led to certain abuses, and there were now more stringent provisions governing the whole process of adoption.

41. Divorce had existed in Paraguay since October 1991, with absolutely equal rights for men and women. Children, however, could not divorce their parents, although the rights of children after divorce were fully guaranteed by law. Women could by law demand child support ranging from 20 to 30 per cent of the former husband's salary per child.

42. Regarding the employment of minors under the age of 12, the law stated clearly that no work contract could be made with children younger than 12; consequently, whatever the law did not permit was directly prohibited. It must be noted, however, that many children worked informally on family projects, even at a very young age.

43. The problem of street children was common to all Latin America and was the direct result of the low economic level throughout the continent. His Government was aware of it and was searching for the best palliatives. It was making efforts, for instance, to find employment for the parents, especially in the capital.

44. Mr. KOUZNETSOV said he found himself in a difficult situation now that the representative of Paraguay had expressed certain doubts about his country's report. It was, after all, a government report in which one would expect to find reliable data; he would be grateful if any discrepancies could be clarified.

45. Mr. WIMER ZAMBRANO said it was very difficult to judge a report which seemed to contain so many inaccuracies; it might be useful if the delegation of Paraguay were to go through it and explain to the Committee which parts were accurate. Also there seemed to have been a misunderstanding about children requesting divorce from their parents; the reference had been to children asking to be withdrawn from a family in which they were being ill-treated.

46. Mr. CEAUSU said that his question had concerned the number of de facto unions - people living together without being married.

47. Mr. LOIZAGA (Paraguay) said that at no point had he questioned his Government's report; he had merely been expressing doubts - possibly connected with translation difficulties - regarding the percentage of women who were in effect heads of families because of the absence of their menfolk. There was a high percentage of single mothers in Paraguay. Paraguay had a law enabling children, or their relatives or neighbours, to request the authorities to remove them from their families if they were being badly treated, and take them into safe keeping.

48. Mr. TEXIER said that in view of the fact that men and women had an equal right to raise a family and freely consented to bring up their children, it was high time that use of the term "head of the family" was abandoned.

Article 11. Right to an adequate standard of living (issues 28-31)

49. Mr. LOIZAGA (Paraguay) said that his country had legislation to protect the environment and ecological rights. A Paraguayan NGO working in conjunction with the relevant ministry had succeeded in creating greater

awareness of the need to preserve the environment, especially in the most densely-populated areas and in the many wide open spaces in Paraguay.

50. With the aim of reducing the housing shortage, a National Housing Council (CONAVI) had been established to facilitate the construction of low-cost housing; there was also a system of deferred payment. The Government had already implemented a number of projects, and in time the programme would become more intensive. Eventually, the idea would be that home-owners could increase the size of their dwellings as their families grew.

51. His Government had done much to improve sanitation facilities in urban and rural areas, and it had been a major government undertaking to provide safe drinking-water, although it would be some time before all rural areas were supplied with safe water. There were a number of electrification projects designed to bring sanitation to all areas of the country. As for housing rents and the conditions for eviction, he would be happy to provide the Committee with more information when he had it; he was able to give an assurance that all evictions must be undertaken within the law.

52. Mrs. JIMENEZ BUTRAGUEÑO asked what had been done to reform the land-ownership system in Paraguay, and what remained to be done. Specifically, she wished to know what had been done to protect the properties of indigenous peoples, and how the Government of Paraguay was coping with uncultivated latifundios.

53. Mr. MARCHAN ROMERO asked, in connection with the reference in the report to the minimum wage and the standard of living, for clarification regarding the exchange rate of the Paraguayan currency (guaraní) and the average everyday expenditure incurred by families. The report referred to Paraguay being divided into urban and rural zones for the purpose of determining a minimum wage, and he wondered what the Government's experience had been in operating such a system. The obvious concern was that a higher minimum wage in urban zones might cause a serious rural exodus.

54. Mr. TEXIER said that, according to the report, the Paraguayan Constitution provided that all inhabitants of the Republic should be entitled to a decent home, yet the housing indicators for 1992, also set out in the report, showed a housing shortage, with a 300,000-unit backlog and a high percentage of housing units with no basic sanitation, drinking water or electricity. He asked what plans the National Housing Council had for providing low-cost housing. He also asked about the Paraguayan Government's policy towards areas of settlement of the kind that often grew up outside Latin American cities and soon became as big as the cities themselves. Did the Paraguayan Government have a plan to provide those settlements with basic amenities and even property titles? He also sought information regarding any plans for State assistance to people wishing to improve their housing. He asked what was being done to provide indigenous people with land, to settle their claims and to satisfy their demands. As for the body set up to deal with their affairs, the Indigenous Institute, he requested information regarding its medium-term plan and the size of its budget.

55. Mr. LOIZAGA (Paraguay) said he would provide more details at a later stage regarding latifundism, but the agrarian reform programme, which aimed to recultivate vast tracts of uncultivated land, was being undertaken within a legal framework, as was the programme of expropriation.

56. The minimum wage was now 25 per cent higher than the figure given in the report, the current figure including a 10 per cent increase decreed by the Government but not yet accepted by the trade unions. The exchange rate was 2,000 guaraníes to the United States dollar, so the current minimum wage was equivalent to approximately US$ 230 per month.

57. There was a very severe, although not recent, housing shortage in Paraguay. Some housing projects had been successful, but others had been less so because the potential beneficiaries had not wished to move. The National Housing Council was implementing a system of self-help. All new urban settlements were based on private property, and the majority of the lots were located on the outskirts of cities. The National Housing Council project was intended to help people to build on their own land. There were 17 ethnic groups in Paraguay, and indigenous people represented a small percentage of the total population, but the Indigenous Institute was seeking settlements for them and trying to encourage them to live where they wished. His delegation would provide more details later in writing.

Article 12. Right to physical and mental health (issues 32 and 33)

58. Mr. LOIZAGA (Paraguay) said that the Ministry of Health had for the past three years occupied second place in terms of the country's overall budget; it was working with the Pan-American Health Organization to reduce the rate of maternal mortality, which was particularly high in rural areas. Because of the scarcity of clinics, only 25 per cent of pregnant women were receiving early health-care services. There was a special branch within the Ministry of Health to deal with women infected with the AIDS virus. Paraguay, which played its part in the Joint United Nations Programme on AIDS, was undertaking a project to disseminate information among the general public, and particularly in schools and colleges. There were only 200 AIDS cases in Paraguay. The main areas covered by the project were the capital, Asunción, and the border areas. His delegation would provide more information at a later stage in writing.

59. The CHAIRPERSON asked about Paraguay's experience in AIDS prevention. Paraguay was a mainly Catholic country, and he wondered what the Government's policy was regarding condom use.

60. Mr. LOIZAGA (Paraguay) said that although the Church had always counselled natural methods of birth control, NGOs had distributed condoms for demonstration purposes in secondary schools.

61. Mrs. JIMENEZ BUTRAGUEÑO asked what family-planning services were available, and whether people could get advice on methods of contraception.

62. Mr. LOIZAGA (Paraguay) said that both the Ministry of Health and health clinics themselves had family-planning units, and there was a project which

targeted rural women with a view to educating them on family-planning options and their rights. Some NGOs were working with the Ministry in the area of family planning.

63. Mr. ADEKUOYE asked for details regarding the Ministry of Health programmes to reduce the rate of maternal mortality and morbidity, and when they had been launched. Had they achieved a reduction?

64. Mr. LOIZAGA (Paraguay) said he would find out and inform the Committee as soon as possible.

The meeting rose at 6.05 p.m.